

104TH CONGRESS  
2D SESSION

# H. R. 3685

To require the Federal Trade Commission and the Federal Communications Commission to take action, as necessary, to protect consumer privacy in light of the convergence of communications technologies.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 1996

Mr. MARKEY introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To require the Federal Trade Commission and the Federal Communications Commission to take action, as necessary, to protect consumer privacy in light of the convergence of communications technologies.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Communications Pri-  
5       vacy and Consumer Empowerment Act”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

1           (1) As our Nation's communications networks  
2 continue to grow and become ever more sophisti-  
3 cated, more individuals and industries will be using  
4 such networks to conduct commercial transactions.

5           (2) It is important to establish personal privacy  
6 rights and industry obligations now so that consum-  
7 ers have confidence that their personal privacy is  
8 fully protected in our Nation's telecommunications  
9 networks.

10          (3) The information superhighway must be safe  
11 and secure for all its travellers so that economic  
12 growth is not threatened due to consumer concern  
13 over the electronic ethics of certain cyberspace mar-  
14 keters.

15          (4) The Telecommunications Act of 1996 (Pub-  
16 lic Law 104-104) contains expanded privacy protec-  
17 tions for consumers by requiring that telecommuni-  
18 cations carriers under the jurisdiction of the Federal  
19 Communications Commission obtain consumer ap-  
20 proval prior to reusing or selling certain personal in-  
21 formation.

22          (5) It is becoming increasingly apparent that  
23 the existing privacy protections accorded consumers  
24 with respect to information gathered by tele-  
25 communications carriers are not alone sufficient to

1 protect consumer privacy rights and that further  
2 protections are needed to ensure that such rights are  
3 retained and respected on the information super-  
4 highway by other entities doing business in  
5 cyberspace.

6 (6) In addition to the growing number of busi-  
7 nesses and adults getting online, some 2,000,000  
8 kids currently use the Internet and this number is  
9 expected to grow to more than 15,000,000 by the  
10 year 2000.

11 (7) Recent media reports indicate that online  
12 marketers are gathering personal information from  
13 children, in some cases in a deceptive manner.

14 (8) In addition to the work performed by the  
15 Federal Communications Commission in regulating  
16 our Nation's telecommunications networks, the Fed-  
17 eral Trade Commission continues to have the task of  
18 ensuring that online marketers and businesses at the  
19 ends of the line do not engage in deceptive or fraud-  
20 ulent practices.

21 (9) The ease of gathering and compiling per-  
22 sonal information, both overtly and surreptitiously,  
23 in cyberspace is becoming increasingly efficient and  
24 almost effortless due to advances in digital tele-  
25 communications technology. As a result, digital tech-

1 nology allows information gatherers to compile high-  
2 ly detailed personal histories of both children and  
3 adults who are network users.

4 (10) Regardless of the technology that consum-  
5 ers use, their privacy rights and expectations remain  
6 a constant. Consumers must have knowledge that  
7 personal information is being collected about them;  
8 consumers must be given conspicuous notice if the  
9 recipient of that information intends to reuse it for  
10 other purposes, or disclose, or sell it; and finally,  
11 consumers must have the right to prohibit or curtail  
12 any reuse or sale of their personal information.

13 (11) Our Nation's communications networks,  
14 including the Internet, have developed extremely  
15 rapidly over the last 2 years, and changes in stand-  
16 ards, protocols, and digital technologies have enabled  
17 consumers to make decisions about access to infor-  
18 mation and services, such as the types of content on  
19 the Internet.

20 (12) New innovative technology may empower  
21 consumers and parents to better control dissemina-  
22 tion of personal information by restoring decision-  
23 making power to the consumer or parent.

24 (13) Industry efforts, with Government encour-  
25 agement and oversight, to assist consumers through

1 the development of standards, protocols, and prac-  
2 tices for the collection and dissemination of personal  
3 information is critical to help parents and consumers  
4 better control dissemination of their personal infor-  
5 mation.

6 (14) Adoption of strong, fair information poli-  
7 cies, standards, and practices, along with the wide-  
8 spread implementation and utilization of consumer  
9 empowerment tools, may limit the need for Govern-  
10 ment regulation of personal information collection  
11 and dissemination practices on the Internet.

12 **SEC. 3. FEDERAL TRADE COMMISSION EXAMINATION.**

13 (a) PROCEEDING REQUIRED.—Within 6 months after  
14 the date of enactment of this Act, the Federal Trade Com-  
15 mission shall commence a proceeding—

16 (1) to determine whether consumers are able,  
17 and, if not, the methods by which consumers may be  
18 enabled—

19 (A) to have knowledge that consumer in-  
20 formation is being collected about them through  
21 their utilization of various telecommunications  
22 services and systems;

23 (B) to have conspicuous notice that such  
24 information could be used, or is intended to be  
25 used, by the entity collecting the data for rea-

1           sons unrelated to the original communications,  
2           or that such information could be sold (or is in-  
3           tended to be sold) to other companies or enti-  
4           ties; and

5           (C) to stop the reuse, disclosure, or sale of  
6           that information;

7           (2) to determine whether, in the case of con-  
8           sumers who are children, the abilities described in  
9           subparagraphs (A), (B), and (C) of paragraph (1)  
10          are or can be exercised by their parents;

11          (3) to propose changes in the Commission's reg-  
12          ulations as necessary to correct any defects identi-  
13          fied pursuant to this section in the privacy rights  
14          and remedies of parents and consumers generally;

15          (4) to review responses and suggestions from  
16          affected commercial and nonprofit entities, as well  
17          as from the National Telecommunication and Infor-  
18          mation Administration, to the proposed changes  
19          made pursuant to paragraph (3); and

20          (5) to prepare recommendations to the Con-  
21          gress for any legislative changes required to correct  
22          such defects.

23          (b) SCHEDULE FOR FEDERAL TRADE COMMISSION  
24          RESPONSES.—The Federal Trade Commission shall, with-  
25          in 1 year after the date of enactment of this Act—

1           (1) complete any rulemaking required to revise  
2 Commission regulations to correct any defects in  
3 such regulations identified pursuant to subsection  
4 (a); and

5           (2) submit to Congress a report containing the  
6 recommendations required by subsection (a)(5).

7 **SEC. 4. FEDERAL COMMUNICATIONS COMMISSION EXAM-**  
8 **INATION.**

9           (a) **PROCEEDING REQUIRED.**—Within 6 months after  
10 the date of enactment of this Act, the Federal Commu-  
11 nications Commission shall commence a proceeding—

12           (1) to examine the impact of interconnected  
13 communications networks of telephone, cable, sat-  
14 ellite, wireless devices, and other technologies on the  
15 privacy rights and remedies of the consumers of  
16 those technologies, as described in paragraphs (1)  
17 and (2) of section 3(a);

18           (2) to determine whether consumers are able,  
19 and, if not, the methods by which consumers may be  
20 enabled to exercise such rights and remedies;

21           (3) to propose changes in the Commission’s reg-  
22 ulations to ensure that the effect on consumer pri-  
23 vacy rights is considered in the introduction of new  
24 telecommunications services and that the protection  
25 of such privacy rights is incorporated as necessary

1 in the design of such services or the rules regulating  
2 such services;

3 (4) to propose changes in the Commission's reg-  
4 ulations as necessary to correct any defects identi-  
5 fied pursuant to this section in such rights and rem-  
6 edies;

7 (5) to review responses and suggestions from  
8 affected commercial and nonprofit entities, as well  
9 as from the National Telecommunications and Infor-  
10 mation Administration, to the proposed changes  
11 made pursuant to paragraph (4); and

12 (6) to prepare recommendations to the Con-  
13 gress for any legislative changes required to correct  
14 such defects.

15 (b) SCHEDULE FOR FEDERAL COMMUNICATIONS  
16 COMMISSION RESPONSES.—The Federal Communications  
17 Commission shall, within 1 year after the date of enact-  
18 ment of this Act—

19 (1) complete any rulemaking required to revise  
20 Commission regulations to correct defects in such  
21 regulations identified pursuant to subsection (a);  
22 and

23 (2) submit to the Congress a report containing  
24 the recommendations required by subsection (a)(6).

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